

\$~12

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A.697/2018 & CRL.M.B.1055/2018**

VIVEK @ VICKY & ANR

.....Appellants

Through: Mr. B.S. Chowdhary with Ms. Sneh
Lata Rana, Advocates.

versus

STATE (NCT) OF DELHI

.....Respondent

Through: Mr. Hirein Sharma, APP for the State.

**CORAM: JUSTICE S. MURALIDHAR
JUSTICE VINOD GOEL**

JUDGMENT
28.08.2018

Dr. S. Muralidhar, J.:

1. This appeal by Vivek @ Vicky (A-1) and Vinod (A-2) is directed against a judgment dated 5th April 2018 passed by the learned Additional Sessions Judge ('ASJ'), Dwarka Courts, New Delhi in SC No.440289/2016 arising from FIR No.168/2011 registered at PS Dwarka Sector-23 whereby A-1 and A-2 were both convicted for the offence punishable under Section 302/34 IPC. A-1 was additionally convicted for the offence punishable under Section 27 Arms Act.

2. The appeal is also directed against the order on sentence dated 12th April 2018 whereby, for the offence punishable under Section 302/34 IPC, each of the Appellants was sentenced to imprisonment for life along with fine of Rs.50,000/- each, and in default of payment of fine, to further

undergo simple imprisonment ('SI') for three months. For the offence under Section 27 Arms Act, A-1 was additionally sentenced to undergo rigorous imprisonment for one year along with fine of Rs.5,000/-, and in default of payment of fine, to undergo further SI for one month.

3. The charge against both Appellants was that on the intervening night of 15/16th December 2011, at an unknown time at the *patri* of the service lane road No.226, opposite Indian Overseas Bank, Sector-20, Dwarka, pursuant to their common intention, they murdered Suraj Paswan ('the deceased') using a knife and thereby committed the offence punishable under Section 302/34 IPC. A-1 was additionally charged with having committed the offence punishable under Section 27 Arms Act as far as the use of the knife was concerned.

Finding the dead body

4. The criminal justice process was activated when DD No.17A (Ex.PW-1/C) was recorded at PS Dwarka Sector-23 on 16th December 2011 at 11:20 am to the effect that information had been received from a wireless operator of the Police Control Room ('PCR') about a dead body of a 25 year old male wearing a white t-shirt and jeans lying in front of Sector-20 *theka* on the footpath by the service road and that the body was bearing knife injuries. On receiving the said information, Inspector Bhagwan Singh (PW-24) proceeded to the spot accompanied by driver Ct. Kuldeep, operator Ct. Dinesh and Ct. Lokesh (PW-11).

5. Upon inspection, several injuries were found on the dead body. The neck was also cut. The clothes on the dead body were a white full-sleeved shirt

worn over a half-sleeved red woollen sweater, black trousers, and brown underwear. A light red colour (carrot colour) shirt and a pair of Hawaii *chappals* having bloodstains with the right step broken were found near the dead body. There was also one knife cover of cardboard with the words 'stainless steel' written on it lying near the dead body. A pair of black sports shoes with white stripes where 'Gold Star' was written was found at a distance of 4-5 steps away from the body. There was also one sandal on the right leg of the dead body whilst another sandal was lying on the other side of the body. PW-24 also found one identity card in the back pocket of the trousers of the deceased which was of Pacific Mall, Najafgarh Road with the name Suraj written on it.

6. In the meanwhile, SI Hazari Lal (PW-22) and SI Jasbeer Singh reached there. PW-24 asked PW-22 to go to the Pacific Mall to confirm the contents of the identity card. Importantly, PW-24 found a button with thread in the right palm of the dead body. Two SIM cards were also found in the right side pant pocket of the dead body.

7. It may be mentioned at this stage that the crime team was summoned along with the dog squad. Photographs were taken by the crime team from various angles. The crime team report (Ex.PW-8/A) prepared by ASI Khazan Singh (PW-8) *inter alia* noted the following exhibits at the spot which were seized:

“(1) Blood, (2) Bloodstained Earth Control, (3) Earth Control, (4) Knife Cover, (5) Slipper Hawaii Chappal, (6) Shoe Gold Star, (7) One Shirt, (8) Two SIM card Idea, (9) One white button.”

Photographs

8. The Court has also seen the photographs taken by HC Bajrang (PW-10) marked as Ex.PW-10/A1-A23 and the negatives marked as Ex.PW-10/B1-B23. Those photographs *inter alia* clearly depict two important facets that are relevant for the present case, viz.:

- (i) The presence of a white shirt button with thread inside the right palm of the dead body; and
- (ii) The carrot coloured shirt lying near the dead body.

9. The photographs also depict the dead body with the clothes worn by the deceased smeared in blood with an obvious knife injury to the neck. The photographs also depict the cover in which the knife perhaps was kept, apart from the slippers and the sports shoes found near the dead body.

10. The articles were seized and sealed. The *rukka* (Ex.PW-24/B) prepared by PW-24 was handed over to PW-11 for registration of the FIR. PW-24 lifted the earth control with blood smeared soil and sealed it.

11. The two brothers of the deceased, viz. Subodh Paswan (PW-3) and Nitin @ Nicky (PW-6), reached the spot after some policemen went to their house enquiring about the deceased. They identified the deceased. Their respective statements under Section 161 Cr PC were recorded by PW-24.

Arrests, disclosures and recoveries

12. Meanwhile, on 17th December 2011, PW-24 and a team of police staff accompanied by the brother of the deceased Subodh Paswan (PW-3) went in search of the accused persons. Their houses were found locked and they

found that neither A-1 nor A-2 had attended their regular places of work. On 18th December 2011, a secret informer informed PW-24 that both accused would come to Raghubir Nagar near the Central School, Tagore Garden. The police party took their positions there at around 2:30 pm. After about 10-15 minutes, both accused were pointed out by the secret informer as they were coming on a motorcycle, which was being driven by A-1. Both A-1 and A-2 were arrested, their disclosure statements were recorded and their personal searches undertaken. A mobile phone was recovered from each of them. These were taken into possession and sealed. The motorcycle on which they were travelling was also seized.

13. Thereafter, the police party went to the house of A-2, and on his pointing out, recovered the clothes that he was wearing at the time of commission of the murder, i.e. black trousers and a bloodstained light green shirt, from a slab made in the room of the ground floor. On checking that shirt, it was found that there was no button at the place of the top second button and there was also some mark of a button having been forcibly broken off. These clothes were seized.

14. A-1 too got recovered the clothes worn by him at the time of the offence from the roof of the toilet of the second floor of the house. These clothes, i.e. black trousers and a bloodstained white shirt with blue and black stripes, were also seized. The documents in relation to the motorcycle were also recovered from A-1 and were seized.

15. Both accused took the police party to the spot of the murder. A-1 disclosed that the knife with which he had committed the murder was

thrown by him in the bushes near Sector-9 Metro Station. The crime team was called there and photographs of the recovery were taken. The knife was picked up and sealed.

16. Later, the knife was shown to PW-5 who gave opinion (Ex.PW-5/C) that the fatal injuries could have been caused by that knife.

Medical evidence

17. It must be mentioned at this stage that A-2 was produced for medical examination soon after his arrest on 19th December 2011 before Dr. Vineet Kumar Soni (PW-25). His MLC (Ex.PW-25/A) showed that the following injuries were found on A-2:

- “(i) sutured wound on right little finger palmar aspect.
- (ii) Partially healed wound at tip of middle finger of right hand and palmar aspect.
- (iii) Partially healed wound at right hand palmar aspect at thenar region.”

18. The post-mortem examination of the deceased was conducted by Dr. Komal Singh (PW-5) on 20th December 2011 at around 3:15 pm and was completed at 4:15 pm. The post-mortem report (Ex.PW-5/A) noted the following external injuries:

- “1. Clean incised wound(CIW) of size 14cm x 10cm (on extension of neck) present over the right latero-anterior, side of neck extending up to the left side of neck, 9cm below from the mastoid at the level of thyroid cartilage horizontally placed its margins are regular. Anteriorly placed 8cm above from supra sternal notch, cutting right sternocleidomastoid muscle at lower 1/3rd cutting of whole thickness of larynx, pharynx and oesophagus and carotid sheath including major blood vessels , reached up

- to body of c5-c6 vertebra. Clotted blood approx.200 ml. present.
2. Another CIW just R lateral to the no.1, spindle shaped with tailing deep to pharynx, obliquely placed 4.2 cm x 3.1 cm with exposing underneath cut parts.
 3. CIW of size 4.5cm x 2cm x deep to present on the inter costal spine at 3rd-9th spine, obliquely placed adjacent to body of sternum located 6cm from left nipple and 6cm below the supra sternal notch. Its both angles are acute.
 4. Clean incised wound of size 9cm x 3cm x deep to muscle present over right posterior aspect over the right scapula. Its both angles are acute.
 5. Clean incised wound of size 4cm x 2cm x muscles deep present over posterior aspect of right thigh just below the gluteal line. Its both angles are acute
 6. Multiple clean incised wound present on the right palm at the theaner eminence size varying 3x 1cm to 2cm x 1cm.
 7. Clean incised wound over right index and little finger at the interphalangeal joint. Its both angles are acute.
 8. Penetrating wound, sharp regular margin present over right entry at base of right scrotum exist at the supra pubic region at proposed right testis with its separated cord found at R inguinal region. Size of wound is 4.5cm x 3cm x muscle deep at medial aspect of R thigh. Its both angles are acute.”

19. The internal examination of the liver further revealed a “penetrating injury having sharp margin present in the inferio-lateral aspect of right lobe of liver 3cm x 2cm x 2cm”.

20. The opinion regarding the cause of death reads as under:

- “1. TIME SINCE DEATH: Approx. 5 days prior to post mortem examination.
2. The cause of death is haemorrhagic shock subsequent to multiple stab injuries involving the vital organs of body.

All injuries are ante mortem and are of same in duration.
Injury no.1 to 4 and 8 were sufficient to cause death
(individually and in jointly) in ordinary course of nature.

3. The manner of death is homicide.”

21. There was no worthwhile cross-examination of PW-5 to shake the confirmed opinion that the death was homicidal and that the fatal injuries had been caused by some sharp-edged weapon.

Forensic evidence

22. The FSL also submitted a report (Ex.PW-24/K) dated 15th May 2012. Blood was detected on many of the exhibits collected by the police from the scene of the crime including the clothes of the deceased as well as the knife recovered at the instance of A-1. This report enclosed the report of the Biological Division of the FSL.

23. The report of the Biological Division of the FSL (Ex.PW-24/J) revealed *inter alia* that the blood on the shirt and trousers (Ex.6a and 6b) of A-2 was human blood of ‘B’ Group, the blood on the shirt worn by A-1 (Ex.7a) was again of ‘B’ Group and that the blood on the sweater, shirt, and underwear (Ex.10a, 10b, and 10d) worn by the deceased was also of ‘B’ Group. The blood on the knife was of human origin but the group could not be confirmed. Similarly, the blood found on the pants of A-1 (Ex.7-b) was of human origin but the blood group could not be confirmed.

24. Another important report was of the Physics Division of the FSL dated 8th May 2012 (Ex.PW-24/Q). This was in relation to Ex.3, which was the white shirt button with stitching thread which had been found in the palm of

the deceased and Ex.6a and 6b, viz. the shirt and trousers worn by A-2. The result of this examination was as under:

- “1. Button in Exhibit-3 and buttons B1 to B9 on shirt Exhibit-6a were examined physically under microscope, VISPEC and other measuring tools and it was found that button in Exhibit-3 was similar to buttons B1 to B9 in respect of colour, texture, design, thickness, diameter of button, diameter of holes, distance between holes and appearance under U.V. light.
2. Thread in Exhibit-3 and stitching threads of buttons of shirt Exhibit-6a were examined physically under microscope, VISPEC and it was found that they were similar in respect of colour, texture, type of twist, number of strands and appearance under U.V. light.”

25. Upon completion of the investigation, a chargesheet was filed and by the order dated 4th June 2012, the trial Court framed charges in the manner noted hereinbefore.

Trial

26. On behalf of the prosecution, 25 witnesses were examined. When the incriminating circumstances were put to the accused during their examination under Section 313 Cr PC, each of them denied the said circumstances. Each of them claimed that he had been falsely implicated. Although each of them stated that they wanted to lead evidence in defence, they did not.

27. A supplementary statement under Section 313 Cr PC of each of the accused was recorded on 14th March 2018 as regards Inspector Madan Pal (PW-16) visiting the spot and preparing a scaled site plan (Ex.PW-16/A), to which each of them pleaded ignorance.

Trial Court judgment

28. In the impugned judgment dated 5th April 2018, the trial Court came to the following conclusions:

- (i) The confusion created by the statement of SI Hazari Lal (PW-22) and SI Bhagwan Singh (PW-24) regarding the actual place of recovery of knife did not exist because both those statements could be reconciled. While PW-22 had stated that “accused took police party near the bushes situated in front of Sector 8, Dwarka”, the recovery memo (Ex.PW-3/P) mentioned it as “near red light Sector 9, Dwarka, Sector -20 Dwarka”. PW-24 had also stated that the disclosure by A-1 was that he had thrown the knife in the bushes near Sector-9 Metro. Sector 8 and Sector 9 are located in front of each other. Therefore, there was not much discrepancy in this regard.
- (ii) There was no merit in the argument that there was a delay in sending the samples to the FSL. Due care and caution had been taken whilst dealing with the exhibits. The FSL Report also did not make any mention of there having been any delay.
- (iii) Merely because the prosecution was unable to prove the motive, i.e. that the deceased was in love with the sister of the accused, this did not weaken the case of the prosecution on account of non-examination of the said sister. Even otherwise, the prosecution had been able to prove the case on the basis of circumstantial evidence. The trial Court also referred to PW-6, who categorically stated that both A-1 and A-2 had complained to them that there was some affair going on between the deceased and the sister of the accused and how they had tried to

counsel the deceased on this issue.

- (iv) With respect to Section 27 Indian Evidence Act 1872 ('IEA'), the fact of the knife having been thrown near the bushes was known only to A-1 and those bushes were at a considerable distance from the main road and the place was not accessible to the public. This was exclusively within the knowledge of A-1 and therefore, the recovery of the knife was not doubtful.
- (v) Three shirts were recovered. One was lying near the body of the deceased (recovered under memo Ex.PW-3/C) whereas the other two shirts were recovered at the instance of each of the accused. The shirt lying near the body of the deceased was not worn by either of them but was used to simply conceal the knife which was used to murder the deceased. The absence of bloodstains on that shirt near the body of the deceased also showed that it was not worn by any of the accused. There was no motive for the IO to plant that shirt at the spot and there was nothing to be gained by introducing that shirt.
- (vi) The non-association of independent witnesses in the recoveries, etc. was not fatal to the case of the prosecution.
- (vii) There was also no occasion for the police to fabricate evidence regarding the button which was recovered from the palm of the deceased. The police had no idea as to which shirt that button belonged at the time, or who was wearing it at the time of the incident. That chain was to be established later on. The button was recovered on 16th December 2011 itself whereas the shirt of A-2 from where it went missing was recovered only on 18th December 2011.
- (viii) The evidence of the Nodal Officer of Vodafone Mobile Services

Deepak (PW-20) who exhibited the Call Details Record ('CDR') of the mobile number ending '6794' (Ex.PW-20/A) along with the certificate under Section 65B IEA (Ex.PW-20/B) proved that the mobile phone of the deceased was used by A-1 by inserting his own SIM card. The IMEI number reflected in the CDR from 1821 hours to 1946 hours on 16th December 2011 was different from the IMEI number that appears for the rest of the relevant period.

- (ix) The details of the calls made using the said mobile phone to another mobile number ending '7887', the CDR of which was proved by the Nodal Officer of Tata Indicom Rajiv Ranjan (PW-21), showed that calls were made by A-1 to A-2 from the mobile number ending '6794'. There were outgoing calls as well. Therefore, the scientific evidence on record has proved that A-1 and A-2 had talked to each other and this was not within the knowledge of the investigating agency and came to the knowledge only through the disclosure statements of the two accused. Therefore, this was not hit by Section 25 IEA.

29. The trial Court then reconstructed the chain of circumstances as follows:

- (i) That the deceased was last seen in the company of A-1 on 15th December 2011 at 6:30 pm by PW-6, who saw A-1 taking him somewhere on his motorcycle.
- (ii) Thereafter, at around 10 am on 16th December 2011, the dead body of the deceased was found lying on the footpath near the bushes in front of the *theka* at Dwarka Sector-20 with several knife injuries inflicted upon him. That the death was homicidal was proved by the medical

evidence.

- (iii) Near the spot, there was a carrot coloured shirt, a pair of Hawaii *chappals*/slippers, and a pair of black sports shoes. The sports shoes and shirt were A-1's and the slippers were A-2's.
- (iv) The respective bloodstained clothes of the two accused were recovered at their instance, pursuant to disclosure statements made by them after their arrest. The FSL report confirmed that the button recovered from the palm of the deceased matched the other buttons on the shirt of A-2 in respect of colour, texture, design, thickness, diameter of holes, distance between the holes, etc.
- (v) The knife recovered at the instance of A-1 was proved by PW-5 to have been capable of inflicting injuries nos.1 to 8 found inflicted upon the body of the deceased.
- (vi) The CDRs also proved that A-1 and A-2 had acted pursuant to their common intention. The offence under Section 27 Arms Act was also made out against A-1.

30. For the aforementioned reasons, the trial Court concluded that the prosecution had proved its case against the accused beyond reasonable doubt and proceeded to convict and sentence the accused in the manner indicated hereinbefore.

31. This Court has heard the submissions of Mr. B.S. Choudhary, learned counsel for the Appellants and Mr. Hirein Sharma, learned APP for the State.

Law relating to circumstantial evidence

32. This is a case of circumstantial evidence in relation of which the law is fairly well settled. It may be recapitulated in brief. The tests laid down by the Supreme Court of India in ***Sharad Birdhichand Sarda v. State of Maharashtra 1984 (4) SCC 116***, have been followed and reiterated in a large number of decisions thereafter. In ***State of Tamil Nadu v. Rajendran (1999) 8 SCC 679*** the Supreme Court held:

“... the law is fairly well settled that in a case of circumstantial evidence, the cumulative effect of all the circumstances proved, must be such as to negative the innocence of the accused and to bring home the charge beyond reasonable doubt. It has been held by a series of decisions of this Court that the circumstances proved must lead to no other inference except that of guilt of accused.”

33. In ***Brajesh Mavi v. The State (2012) 7 SCC 45***, the Supreme Court explained:

“From the several decisions of this court available on the issue the said principles can be summed up by stating that not only the prosecution must prove and establish the incriminating circumstance(s) against the accused beyond all reasonable doubt but the said circumstance(s) must give rise to only one conclusion to the exclusion of all others, namely, that it is accused and nobody else who had committed the crime.”

Circumstance of ‘last seen’ and motive proved by PWs 3 and 6

34. The chain of circumstances outlined by the trial Court has been examined by this Court in light of the evidence gathered by the prosecution. The evidence of ‘last seen’ is sought to be proved through the deposition of PW-6 as was the possible motive for the two accused committing the crime. PW-6 is no doubt a related witness since he is the brother of the deceased.

However, the settled legal position is that merely because the witness happens to be related to the deceased, his testimony cannot be discarded but will have to be carefully scrutinised. There are details pertaining to the deceased that would possibly be known only to his close relatives.

35. The legal position has been explained thus by the Supreme Court in ***Raju v. State of Tamil Nadu AIR 2013 SC 983***:

“.....we are concerned with four categories of witnesses - a third party disinterested and unrelated witness (such as a bystander or passer-by); a third party interested witness (such as a trap witness); a related and therefore an interested witness (such as the wife of the victim) having an interest in seeing that the accused is punished; a related and therefore an interested witness (such as the wife or brother of the victim) having an interest in seeing the accused punished and also having some enmity with the accused. But, more than the categorization of a witness, the issue really is one of appreciation of the evidence of a witness. A court should examine the evidence of a related and interested witness having an interest in seeing the accused punished and also having some enmity with the accused with greater care and caution than the evidence of a third party disinterested and unrelated witness. This is all that is expected and required.”

36. In ***Hari Obula Reddy v. The State of Andhra Pradesh (1981) 3 SCC 675***, the Supreme Court observed:

“...it is well settled that interested evidence is not necessarily unreliable evidence. Even partisanship by itself is not a valid ground for discrediting or rejecting sworn testimony. Nor can it be laid down as an invariable rule that interested evidence can never form the basis of conviction unless corroborated to a material extent in material particulars by independent evidence. All that is necessary is that the evidence of interested witnesses should be subjected to careful scrutiny and accepted with

caution. If on such scrutiny, the interested testimony is found to be intrinsically reliable or inherently probable, it may, by itself, be sufficient, in the circumstances of the particular case, to base a conviction thereon.”

37. Apart from speaking to seeing the deceased leave with A-1 on his motorcycle at around 6:30 pm on 15th December 2011, PW-6 also volunteered an important fact about A-1 and A-2 complaining to him and the other brother of the deceased PW-3 about the deceased having an affair with the sister of the accused. The cross-examination of PW-6 does not show that PW-6 was deviating from his previous statements about the Appellants on these material aspects. While he could not remember the exact date on which A-1 and A-2 had complained to them about the affair between the deceased and their sister, there is only a suggestion about the accused not having made such a complaint, which he denied.

38. PW-6 was also an important witness for the prosecution regarding his identification of the shoes and slippers worn by the accused. Although a bold suggestion was made that he could not identify these objects, there is nothing much that emerged in his cross-examination to shake the testimony of PW-6 in favour of the accused. To this Court, he comes across as a natural and reliable witness. He has also only spoken about things which were within his knowledge. It does not appear that there was any particular reason for him to falsely implicate A-1 and A-2.

39. On the material particulars, PW-6 has been corroborated by the other brother of the deceased PW-3. He was a witness to the arrests of both A-1 and A-2 as well as their disclosure statements and the recoveries made

thereafter. He also identified the pair of slippers found near the dead body as belonging to A-2 and the pair of shoes recovered from the spot as belonging to A-1. Nothing much could be elicited for the defence in his cross-examination.

40. The recovery of the motorcycle on which the deceased was last seen with A-1, as spoken to by PW-6, has also been proved by the prosecution. The said motorcycle has been proved to belong to A-1. Consequently, the Court is satisfied that the prosecution has proved beyond reasonable doubt the circumstance of the deceased being last seen in the company of A-1, who is the brother of A-2.

CDRs

41. The next circumstance in sequence is the conversations between A-1 and A-2 on the mobile numbers used by them and that has been proved conclusively through the CDRs which were produced by PWs 20 and 21. The Court concurs with the trial Court that this evidence comprehensively proves the calls between the two mobile numbers ending '6794' and '7887'. But for the disclosures of the two accused, this fact of their calling each other on mobile phones with A-1 using the instrument belonging to the deceased could not have been known to the police and that portion of the disclosures were therefore admissible under Section 27 IEA.

Carrot coloured shirt and broken button

42. Out of the two clinching pieces of evidence as far as the culpability of the two accused goes, the first is the carrot coloured shirt belonging to A-1 lying near the dead body which was used to wrap the knife which was

brought to the spot. The other clinching piece of evidence is the broken white button with thread found in the palm of the deceased which indicated a sign of struggle before the death. The FSL report had matched this button with the missing button in the shirt of A-2. The button and the thread having an exact match with the other buttons and cloth of the shirt of A-2 was a peculiar circumstance which conclusively connected A-2 to the crime.

43. Moreover, the photographs taken by the crime team soon after the police reached the spot where the dead body was lying clearly show the carrot coloured shirt lying next to the dead body as well as the slippers and shoes. Photographs also show the button with broken thread inside the palm of the deceased. There is no way that these objects could have been planted before or at the time the crime team took the photographs. The crime team took these photographs on 16th November 2011 whereas the arrests of the accused only took place on 19th December 2011, and there is no way that the police would have known to which shirt the button belonged or to whom that carrot coloured shirt belonged.

Homicidal death

44. That the deceased died a homicidal death was proved beyond reasonable doubt by the medical evidence. That the fatal injuries were caused by the knife recovered at the instance of A-1 was also proved.

45. The MLC of A-2 revealed injuries on his person which were not recent enough to suggest that they were sustained after his arrest. These appeared to be from the scuffle between the deceased and the accused. The crime team which visited the scene soon after the discovery of the dead body also

saw that there had been signs of struggle around the place where the dead body was found. This also had to be viewed in the background of A-2 failing to offer any explanation for the injuries on his person.

Matching blood group

46. The photographs further show that the clothes of the deceased were stained with blood. The blood group was found to be the 'B' group and it can be safely presumed to be the blood group of the deceased. This matched with the blood group found in the bloodstains on the shirts of the accused. With these recoveries having been proved being beyond reasonable doubt, this is another link in the chain of circumstance which stands proved. The FSL report regarding the bloodstains found on clothes of the accused and the deceased is another clinching piece of evidence.

Motive

47. As regards motive, since PW-6 has already been held by the Court to be a reliable witness and he has spoken about A-1 and A-2 coming to him and PW-3 and complaining about the affair between the deceased and their sister, the relevant motive has also been proved by the prosecution thus completing the chain of circumstances.

Conclusion

48. The Court concurs with the trial Court that all the links in the chain of circumstances have been proved by the prosecution beyond reasonable doubt and the completed chain unerringly points to the guilt of both the accused and no one else.

49. Consequently, the Court finds no merit in this appeal. The appeal and the application are accordingly dismissed.

50. The trial Court record be returned forthwith together with a certified copy of this judgment.

S. MURALIDHAR, J.

VINOD GOEL, J.

AUGUST 28, 2018

tr/mw

